



Recognition of True Costs Forces Increase in Appraiser Application and Renewal Fees for Licensure and Certification

by Mark Fagergren
Director Licensing and Education

Effective July 1, 2002 the application fee and renewal fee for a two year term of appraiser licensure or certification will each be \$350. The new fee amount was posted in the State Bulletin in 2001. Public comment on the change was solicited at a public hearing held on government licensing fees at the Department of Commerce on December 7, 2001. The change was submitted as part of the state budget by the Governor's Office of Planning and Budget, and approved in the 2002 legislative session.

Why this less than pleasant change? Here are several reasons:

1. Utah statute law, U.C.A. 63-38-3.2 (2)(a)(i), requires that state fees must be "reasonable, fair and accurately reflect the cost of services provided," which in this case is the cost of licensing and regulating the appraisal industry.

"By statute, the fee must fairly and accurately reflect the actual labor-intensive cost of regulating this technically complex profession."

2. While the level of competency in the profession has increased dramatically, the number of licensed or certified appraisers has dropped by half in the last 2½ years, in large part because of the May 2, 2001 legislative increase in qualifying requirements and elimination of the "Registered Appraiser" category. Compare the following figures: On June 30, 1999, the total number of appraisers licensed and certified in Utah was 2161, but had decreased 55% by September 30, 2001 to 976. As of March, 2002 the number is 995. At that rate of increase, by January, 2003 there will be approximately 1050.

3. Commensurately with the drop in appraiser numbers, appraiser licensing fee revenue per year has dropped substantially, decreasing 55% between June 30, 1999 and September 30, 2001. Even if the \$350 license fee had been in effect over that time, the decrease in revenue would still have been 19%.

4. Recently, the fee revenue from appraisers has been less than the costs of regulating the profession, because it is a technically complex and demanding profession that is labor intensive to regulate, and because the number of complaints against the appraisers has increased exponentially. It also requires substantial expertise in the investigators and regulators. The licensing fees appraisers currently pay per year are a lesser portion of Real Estate Division revenues, but appraiser cases and issues take up proportionately more Division staff time than current fee income can support.

5. The appraiser licensee base has drastically decreased in numbers, but investigations and complaints continue to come in at a steady rate. We expect complaints to decrease over the longer term.

continued on page 8

In This Edition

Disciplinary Sanctions	2
Appraiser Sentenced in 3 County Fraud Scheme	3
USPAP Q&A	4
Appraisers: NoDuty to Non Requesting Parties	6
Licensing Statistics	6
Protecting Yourself From Fraud	7
In Memorium	10
USPAP & Utah Law	10
Continuing Education Report Form	11



Disciplinary Sanctions

BRADY, JOHN, State-Licensed Appraiser, Salt Lake City. Agreed to pay a \$1,000.00 fine and complete a USPAP course, and agreed not to apply for certification for at least one year after January 23, 2002, based on two complaints filed with the Division. In connection with one complaint, Mr. Brady admitted violating USPAP by picking unlike comparables and making improper adjustments while working under the supervision of a certified appraiser in 1998. In connection with the other complaint, Mr. Brady admitted violating USPAP by failing to disclose his lack of competency to appraise a unique property consisting of a horse stable with a second floor residence above it situated on 22 riverfront acres, and by failing to take the necessary steps to become competent. #AP98-10-26, and #AP20-03-04.

BURTON, CLYDE, State-Certified Residential Appraiser, Clearfield. Agreed to pay a \$1,500.00 fine and complete a USPAP course in settlement of a complaint alleging that his appraisal of a property in Clearfield at \$121,000.00 was too high. The appraisal order stated, "Please get \$120,000.00." Mr. Burton denied that he intentionally inflated the appraisal, but admitted that his appraisal violated USPAP and that his search for comparable properties was probably influenced by having the \$120,000.00 figure in mind when he started his search. #AP99-11-11.

CHILDS, GRANT E., State-Certified Residential Appraiser, Payson. Agreed to pay a \$2,500.00 fine and complete the 2002 USPAP Course in settlement of several complaints filed with the Division. The Division's allegations, if proven, would constitute USPAP violations. The allegations included use of inappropriate methods, failing to verify the identity of the owner of a property or state the sales price and date of the sale, failing to report a sale that had occurred less than twelve months earlier, and valuing a property at \$360,000.00 that he had appraised three months earlier for \$290,000 without sufficient justification for the increase, #AP96-10-05, #AP97-12-09, #AP98-01-05, and #AP01-08-17.

COON, TERRY V., State-Certified Residential Appraiser, West Jordan. Agreed to pay a \$2,000.00 fine and complete a USPAP course and a course on appraising modular homes, based on two complaints in which Mr. Coon admitted USPAP violations. One complaint alleged a failure to analyze a prior sale. The other complaint alleged that in the appraisal of a manufactured home he made improper adjustments and used improper methods (picking unlike comparables which were framed dwellings and not manufactured homes). #AP20-01-19 and #AP10-06-17.

CRAWFORD, NATALIE L., State-Certified Residential Appraiser, Spanish Fork. Allowed to withdraw her application for renewal, effective February 27, 2002, on the conditions that she will not apply for a new license or certification for at least two years and that if she applies for a new license or certification after two years, the Division will reopen two cases and consider them in connection with her new application. Ms. Crawford also agreed that during the two year period she will not own or manage a company that appraises in Utah, and that she will not work for a Utah appraiser as a trainee, unclassified individual earning points for licensure or certification, clerical support staff, or in any other capacity. #AP20-01-04 and #AP01-05-13.

ELLSWORTH, D. DELOS, State-Certified General Appraiser, Provo. In lieu of continuing to respond to the Division's investigation of a complaint, Mr. Ellsworth surrendered his rights in connection with his application for renewal and agreed not to apply for a new license or certification from the Division for at least two years. He also agreed that he will not work in the appraisal business in an unlicensed capacity for the same period of time. #AP99-09-01.

EVANS, CHRISTOPHER J., State-Certified Residential Appraiser, Orem. Surrendered his certification effective January 23, 2002, and agreed not to reapply for at least two years rather than continue to respond to the Division's investigation of cases #AP20-07-03, #AP20-11-16, #AP01-08-51, and #AP01-08-53.

KNAPHUS, LOREN K., State-Certified Residential Appraiser, Salt Lake City. Agreed to pay a \$2,000.00 fine, complete an educational requirement, and agreed not to supervise or sign for any other appraisers or unclassified persons working in the appraisal business for two years starting January 23, 2002. Mr. Knaphus admitted violating USPAP by failing to properly train and supervise registered appraisers who performed the appraisals involved in complaints filed with the Division. #AP98-06-16, #AP98-06-22, #AP01-04-18, and #AP01-03-28.

KRANSTOVER, WILLIAM J., State-Certified General Appraiser, Park City. Mr. Kranstover admitted violation of USPAP in two complaints and agreed to pay a \$1,000.00 fine and take a USPAP course, and that he will not sign for, or supervise other appraisers, appraiser trainees, or unclassified persons for two years. In one complaint, the lot value and the improvements were substantially overstated. In the other complaint, Mr. Kranstover inadequately trained and supervised a registered appraiser who signed numerous appraisals that were in significant violation of USPAP. Mr. Kranstover also failed to physically inspect the subjects of those appraisals. #AP20-05-14, and #AP97-04-19.

RAFINER, LARRY L., State-Certified Residential Appraiser, Pleasant Grove. Mr. Rafiner admitted violating USPAP by making a series of careless or negligent errors and agreed to pay a \$1,000.00 fine and complete a USPAP course. The complaint involved an appraisal in which he neglected to mention the listing history of the subject property or a seller concession on one of the comparables and in which he inaccurately reported the sales price of another of the comparables. #AP01-08-45.

ROSS, BRUCE, State-Certified Residential Appraiser, Salt Lake City. Expired certification reinstated effective January 23, 2002 on the following conditions: 1) Certification suspended immediately with the suspension stayed; 2) Certification placed on probation for two years, during which time he shall not supervise or sign for any other appraiser; 3) Completion of an educational requirement; and 4) Payment of a \$3,500.00 fine. This stipulated settlement resolves the Petition filed by the Division in Case AP98-04-13 as well as seven additional complaints filed with the Division. Mr. Ross admitted violation of USPAP Standards Rules 1-1(a), 1-1(b), 1-1(c), and 1-4(b) (iii) in connection with Case #AP98-04-13.

HARWARD, TOM O., State-Certified General Appraiser, Highland. Surrendered certification effective February 27, 2002 in lieu of responding to the Division's investigation of complaints filed against him. Mr. Harward agreed not to apply for a new license or certification for at least five years, that he will not own or manage a company that appraises in Utah, and that he will not work for a Utah appraiser as a trainee, unclassified individual earning points for licensure or certification, clerical support staff, or in any other capacity other than as chauffeur for licensed or certified appraisers for the same five year period. #AP20-05-08 and #AP20-06-04.

WOODS, C. BRENTON, State-Certified Residential Appraiser, West Jordan. Agreed not to supervise or sign for any other appraisers for five years, beginning February 27, 2002, and that he will pay a \$1,000.00 fine and complete a USPAP course in settlement of complaints involving appraisals in which he violated USPAP by failing to properly train and supervise registered appraisers for whom he signed as the certified appraiser. The registered appraisers used comparables that were not similar in size or location and used incorrect data, among other things. #AP98-10-27, #AP99-08-24, #AP99-10-07, and #AP01-12-26.

WHITAKER, WILLIAM A., State-Licensed Appraiser, Park City. Agreed to pay a \$1,000.00 fine in settlement of a complaint involving an appraisal that violated USPAP. Mr. Whitaker's appraisal was done when he was a relatively new registered appraiser. He lacked the necessary expertise to complete the assignment, which used improper methods and contained numerous errors. In mitigation, Mr. Whitaker has taken 62.5 hours of appraisal courses since the time of the appraisal and has had no further complaints filed against him. In further mitigation, Mr. Whitaker maintains that the certified appraiser who supervised him failed to train him or to supervise the appraisal. The certified appraiser is no longer appraising, having surrendered his certification in connection with this and other appraisals. #AP20-03-02.

ZIEMBA, KENNETH A., State-Certified Residential Appraiser, Lehi. Agreed to pay a \$500.00 fine and complete a USPAP course every two years until May 2004 in settlement of a complaint in which he signed as the registered appraiser on an appraisal that violated USPAP because there was insufficient data in the workfile to support the conclusions and assumptions in the report. In mitigation, Mr. Ziemba has taken additional education and passed the State-Certified Residential appraiser exam since the time of the appraisal at issue. #AP20-08-09.

Former Appraiser Sentenced in 3-County Fraud Scheme

A former appraiser was sentenced to prison for defrauding more than 30 people in Salt Lake, Utah and Tooele counties who were trying to refinance their homes.

Brooks Bradshaw, 33, was ordered to serve four concurrent terms of up to five years in the Utah State Prison.

The Utah Attorney General's Office said Bradshaw approached people who were facing foreclosures and told them he was the owner of a mortgage lending company and could help them get refinancing. In return, he asked for \$400 to \$1,000 to supposedly pay for credit reports and appraisals.

The Attorney General's Office said Bradshaw actually used the money for his living expenses and did not perform any of the promised services.

Bradshaw lost his appraisal license in 1998 for inflating property values. He pleaded guilty last year to four third-degree felony counts of communications fraud.

In addition to the prison sentence, 3rd District Court Judge Joseph Fratto ordered Bradshaw to pay full restitution to all the victims.

"This should be a reminder that people need to do some checking and find a reputable mortgage company before giving anyone money for refinancing," said Charlene Barlow, assistant attorney general.

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USPAP Q & A

This communication by the Appraisal Standards Board (ASB) does not establish new standards or interpret existing standards. The ASB USPAP Q&A is issued to state and territory appraisal regulators to inform all states and territories of the ASB responses to questions raised by regulators and individuals; to illustrate the applicability of the Uniform Standards of Professional Appraisal Practice (USPAP) in specific situations; and to offer advice from the ASB for the resolution of appraisal issues and problems. The ASB USPAP Q&A do not constitute a legal opinion of the ASB.

Vol. 3, No. 1 – January 2001

Question #2

A client has asked me to develop an appraisal. I am not under any obligation by law or regulation, or by agreement with the client, to comply with USPAP for this particular assignment, but I would like to do so. Is this possible?

Response:

Yes, you can voluntarily choose to perform an assignment under USPAP. The ETHICS RULE states “Compliance with these standards is required when either the service or the appraiser is obligated by law or regulation, or by agreement with the client or intended users, to comply. Compliance is also required when an individual, by choice, represents that he or she is performing the service as an appraiser.”

Vol. 3, No. 2 – February 2001

Question #2

I am performing a review of a real property appraisal and my client has asked me to give my opinion of value, even if I agree with the value in the appraisal. Does my concurrence constitute an appraisal opinion? If so, what do I need to do to comply with USPAP?

Response:

Yes, if you concur with the value in the report, it does constitute an appraisal by the reviewer. SR 3-1 (a) states:

“If the purpose of the assignment includes the reviewer developing his or her own opinion of value about the subject property of the work under review, that opinion is an appraisal whether it:

- **concurs with the opinion of value in the work under review, as of the date of value in that work or a different date of value; or**
- **differs from the opinion of value in the work under review, as of the date of value in that work or a different date of value.”**
(bold added for emphasis)

You should be careful to be sure that your scope of work clearly includes the requirement to develop your own opinion of value (i.e. an appraisal).

The Comment to SR 3-1 (c) shows the steps that must be taken when the purpose of an appraisal review includes the reviewer expressing his or her own opinion of value. One of these requirements is that you must satisfy Standard 1 (or Standard 7 for a personal property appraisal review). Specifically, whether you concur or disagree with the value in the appraisal being reviewed, you would extend to your development process those items in that appraisal that you conclude are credible and in compliance with Standard 1 in this case. This is accomplished on the basis of an extraordinary assumption. Those items not deemed to be credible or in compliance must be replaced with information or analysis by the reviewer.

Additional advice is contained in Advisory Opinion 20, “An Appraisal Review Assignment that Includes the Reviewer’s Own Opinion of Value.”

Vol. 3, No. 3 – March 2001

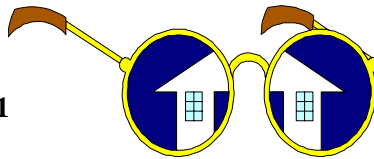
Question #1

If a home has sold more than once in the past year, am I required to analyze all of the sales, or just the most recent sale? Also, what am I required to do if a transfer of ownership is due to a foreclosure, or is between family members or other related parties?

Response:

Advisory Opinion 1 (AO-1) addresses the appraiser’s obligations with respect to prior sales of the subject. It states in part:

“USPAP Standards Rule 1-5(a) and (b) require an appraiser to analyze (1) any current Agreement of Sale, option, or listing of the property being ap-



praised, if such information is available to the appraiser in the normal course of business, and (2) any prior sales of the property being appraised that occurred within one year for a one to four family residential property or within three years for all other property types. In any case, USPAP Standards Rules 2-2(a)(ix), (b)(ix) and (c)(ix) call for the written appraisal report to contain sufficient information to indicate compliance with the sales history requirement. Standards Rules 2-2(a)(ix), (b)(ix) and (c)(ix) further require that, if sales history information is unobtainable, the written appraisal report must include a commentary on the efforts taken by the appraiser to obtain information."

Therefore, you must report and analyze all of the sales, not just the most recent one. This would also include any type of sale, whether it was arm's length or not. If a sale was between family members, or otherwise related parties, or involved a foreclosure, the appraiser is still obligated to report it and analyze it.

In addition, if sales listings, etc. from prior periods (i.e. beyond the one or three year periods) are known and considered relevant to the appraisal of the subject property, they should also be reported and analyzed.

Question #3

Is it a violation of USPAP to offer as a marketing tool for my services a coupon for a 10% discount off the cost of an appraisal to potential clients such as mortgage lenders and the general public?

Response:

The Management section of the ETHICS RULE states:

*The payment of **undisclosed** fees, commissions, or **things of value** in connection with the procurement of an assignment is unethical.*
(bold added for emphasis)

Comment: Disclosure of fees, commissions, or things of value connected to the procurement of an assignment must appear in the certification of the written report and in any transmittal letter in which conclusions are stated.

The use of a coupon as a marketing tool would not be a violation of the ETHICS RULE. However, a coupon for a

reduced fee would be a thing of value connected to the procurement of an assignment. Therefore, proper disclosure must be made in the certification of the written report and in any transmittal letter in which value conclusions are stated.

Vol. 3, No. 4 – April 2001

Question #1

Frequently, the borrower in a lending transaction is provided with a copy of the appraisal report; and in some cases, the appraiser knows that the borrower will be receiving a copy of the appraisal report. When the appraiser is aware that the borrower or any other third party will receive a copy of the appraisal, does this make that third party an intended user?

Response:

Not necessarily - USPAP defines the Intended User as:

"The client and any other party as identified, by name or type, as users of the appraisal, appraisal review, or appraisal consulting report, by the appraiser on the basis of communication with the client at the time of the assignment."



The intended use of an appraisal, appraisal review, or appraisal consulting assignment conclusions and opinions is **established by the client and agreed to by the appraiser**. It is crucial for the appraiser to know the identity of all intended users and of their requirements in order to correctly understand the intended use of the report.

Statement No. 9 (SMT-9) in USPAP provides further guidance on this issue, including in part:

"A party receiving a report copy from the client does not, as a consequence, become a party to the appraiser-client relationship."

Parties who receive a copy of an appraisal, appraisal review, or appraisal consulting report as a consequence of disclosure requirements applicable to an appraiser's client do not become intended users of the report unless the client specifically identifies them at the time of the assignment."

Appraisers: No Duty to Non-Requesting Party

An appraiser retained by the purchaser of a residence was not liable in damages to the seller for alleged negligent misrepresentation of the value of the home, held a Tennessee court in the case of *Addaman v. Lanford*, 46 S. W. 3d 199 (Tenn. Ct. App. 2000); appeal denied, 2001.

Background

Mark and Cathalena Addaman built their own home, lived in it for several years, and then placed it on the market. A sales contract was entered into with Robin and Janet Whyte, providing for a price of \$435,900. The contract was contingent upon the property being appraised through the mortgage lender at a value at least equal to the sale price. The lender retained Gwendolyn Lanford, a licensed real estate appraiser, to make the appraisal. After what she considered appropriate investigation, she submitted an appraisal well below the contract price. The lender refused to make the mortgage and the Whytes canceled the contract. The Addamans then hired another appraiser who concluded that the home was valued at \$450,000. The Addamans sued Lanford, alleging negligent misrepresentation and breach of contract. At the same time, the Addamans listed the home with a broker at a price of \$459,900, somewhat higher than the original listing. When the case was tried a year later, the Addamans had received no offers to buy.

Trial Court Decision

Following a trial at which appraisal testimony was given both for and against Lanford, the trial judge directed a verdict for Lanford on the issue of breach of contract, but submitted the issue of negligent misrepresentation to the jury. The jury found against her awarded damages in the amount of \$20,000. Lanford appealed.

Elements of Negligent Misrepresentation

Following Section 552 of the Restatement (Second) of Torts, the appellate court said that the elements of negligent misrepresentation are as follows:

- The provider of the information is acting in the course of his business or profession; and
- The provider supplies faulty information meant to guide others in their business transactions; and

- The provider fails to exercise reasonable care in obtaining and communicating the information; and
- The person suffering loss has justifiably relied on the information.

No Justifiable Reliance

The court said there was material evidence to support a jury finding that Lanford failed to comply with the applicable standard of care in making her appraisal. However, the proof fell far short of showing justifiable reliance by the sellers. The information was not given for the sellers' benefit, nor did the sellers do anything in reliance on the appraisal. The appraisal was obtained for the benefit and guidance of the buyers and not the sellers. The exact same outcome (no sale) would have occurred whether or not the sellers ever knew about the appraisal. Consequently, the court reversed the judgment of the trial court and dismissed the case.

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LICENSING STATISTICS

	RA	LA	CR	CG	TOTAL
2000					
April	1067	14	481	324	1886
May	1012	15	486	326	1839
June	974	16	485	328	1803
July	947	15	492	327	1781
August	894	17	489	327	1727
September	859	17	490	324	1690
October	826	18	490	321	1655
November	805	18	488	324	1635
December	785	19	492	330	1626
2001					
January	751	19	492	330	1592
February	692	22	498	340	1552
March	649	26	499	340	1514
April	593	38	517	345	1493
May	493	46	541	351	1431
June	0	56	571	355	982
July	0	64	580	355	999
August	0	72	561	337	970
September	0	77	562	337	976
October	0	80	561	335	976
November	0	84	563	340	987
December	0	82	565	341	988
2002					
January	0	83	566	340	989
February	0	86	569	340	995
March	0	86	569	340	995

Protecting Yourself from Fraud

by Todd F. Stevens

Can an honest real estate professional unwittingly become involved in real estate fraud? Unfortunately, it happens all the time. Real estate fraud is surprisingly easy for an appraiser to become entangled.

The "typical" fraudulent real estate transaction involves the flipping of distressed property. A small group of sophisticated "investors" locate a distressed property, usually a single-family home or small apartment complex. The investors acquire the property below market value, based upon its damaged condition. The investors perform minor cosmetic work, not addressing the true defects (i.e., cracked slab) and locate a new buyer.

The buyer is often a naive individual who is promised fantastic returns if he permits the use of his credit to purchase the property. The investors agree to service the debt and pay all other costs after closing. The investors promise the buyer they will locate a purchaser in a few months. Of course, the investors never intend to fulfill these promises and don't disclose the defective condition of the property to the buyer.

The buyer agrees to pay \$100,000 over the price paid by the investors to purchase the property. The investors hire an appraiser to value the freshly painted, vacant and clean property. Of course, nothing is disclosed to the appraiser regarding the defective condition of the property. The appraiser is told of the purchase price agreed upon by the buyer.

The appraisal is given to the lender.

The loan is made based upon the appraised value, the good credit of the buyer and the buyer's statement of intended occupancy. Escrow closes, the crooks make \$100,000 and the buyer quickly defaults. The lender forecloses on the property and discovers it is not worth the amount of the loan. The investors are gone, judgment-proof, or both. The only party the lender can find – the appraiser – gets sued.



There are several derivations of this basic scheme. Common to all is that the investors usually have knowledge of the real estate industry, acquired legitimately in some aspect of the business. Thus, they can be very smooth and tell a compelling story.

Warning Signs of Fraud

I have defended several appraisers who have been sued by the unhappy lenders. My clients were not part of the fraudulent conspiracy. After working on several fraud cases, I started to assemble a list of the signs that, if recognized, could keep the appraiser out of trouble. I also spoke with Stephen Robinson, a deputy district attorney in the real estate fraud division of the San Diego County District Attorney's office. Mr. Robinson, a veteran of hundreds of real estate fraud cases, provided valuable insight.

Know Thy Clients

When you receive an assignment from a

client you have never done business with nor ever heard of, be cautious. I am not suggesting that you turn down all new business but do a little homework on a first-time, unknown client. How long have they been in business? Are they a licensed professional (i.e., real estate/mortgage broker)? How did they get your name? Odds are it will not be from a typical referral source. The shady investor is usually not a licensed professional, although they may claim to be. Check governmental licensing Web sites, get business cards and ask around.

An appraisal assignment generated by an unusual source of business may be a negative sign. If your typical client is a lender and the assignment comes from a private party, real estate broker or mortgage broker, dig a little. Where do they intend to submit the appraisal? Why is the lender not the retaining party?

Declining the assignment is always the best avoidance technique. However, if you have accepted an assignment, watch for warning signs that develop as you work on the report.

Is It Your Turf?

If the subject property is outside the geographic area where you typically work, this could be a red flag. Ask yourself, why are these folks attempting to hire me?

Is It a Rush?

These investors almost always ask the appraiser to complete the assignment

continued on page 8

Costs Increase

continued from page 1

6. Neighboring states charge appraiser fees around \$350 for two years of licensure / certification. The fees per state are: Wyoming: \$365, Idaho: \$500, Colorado: \$190, Nevada: \$290, Arizona: \$475. The average fee for those states is \$365.

7. Other Utah professionals, such as attorneys, pay higher 2-year fees, i.e. \$700.

8. Appraiser regulation is federally prescribed and mandated, and is therefore substantial and extensive in its effect, though it is not funded by the federal government.

9. Appraiser regulation must be carried out and must be effective, because appraisers have such substantial impact on the market values of housing in the state, and on the availability and cost of mortgages in the state, which in turn impacts the construction industry. Appraisals must be as accurate as possible.

SUMMARY: BY STATUTE, U.C.A. 63-38-3.2 (2)(a)(i), THE FEE MUST REFLECT FAIRLY AND ACCURATELY THE ACTUAL LABOR-INTENSIVE COST OF REGULATING THIS TECHNICALLY COMPLEX PROFESSION THAT HAS SUBSTANTIAL IMPACT ON THE ECONOMY OF UTAH.

NOTE: The proposed \$350 fee, like the former fee, does not include the \$50 pass-through fee charged for registration with the national appraiser database.

Protecting Yourself from Fraud

continued from page 7

on a rush basis. This gives the buyer less time to get cold feet and impairs the ability of the appraiser to do a thorough job.

Is It Hush Hush?

If the appraiser is instructed not to speak to anyone other than the retaining party about the property – this is a bad sign. Neighbors love to chat about the neighborhood; sometimes the subject property will have a tenant. An instruction to speak to only the principal is rarely a justifiable request.

Timing of the Last Sale

Was the property recently sold? If the current purchase price is significantly higher, get proof of the improvement work supposedly performed. Do not accept the word of the retaining party. Find out why the property sold for a much lower value in the recent past.

Verify

Be suspicious if the client presents you with a packet of comparable sales data, rent rolls, leases and other documents relating to valuation. Be sure to verify data provided to you, even if it appears reliable. Avoid bracketed comparable sale searches. You may miss a neighboring property that sold in a much lower price range because of a defect that could affect the subject property.

Cash Is Nice but . . .

Cash is wonderful payment but the shady client usually wants to leave as few tracks as possible. I am not suggesting that you

turn down cash but it may be a red flag of a troubled transaction.

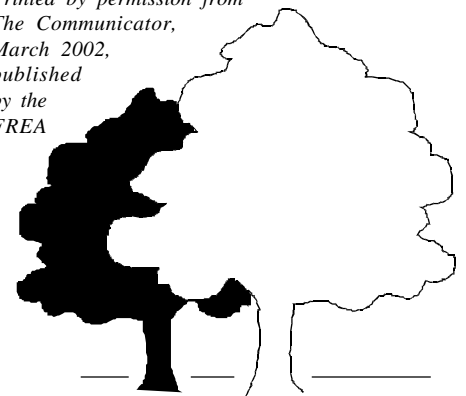
Know Thy Neighborhood

If the surrounding neighborhood is known for a specific problem (i.e. soil subsidence) but according to the client the subject property is clean, be leery. The property may be free from common area problems, but be sure. Include in your report any representations that you received from the principals, reference the information you were able to obtain and the facts that you could not confirm.

Real estate fraud is not a new phenomenon. Despite all of the safeguards in place, it still occurs with alarming frequency. By remaining vigilant you can avoid it.

Mr. Stevens is a shareholder in the law firm of Keeney Waite & Stevens in San Diego. He has represented appraisers, home inspectors and other real estate professionals for 13 years. He is a former president of the San Diego County Bar Association.

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It has come to the attention of the Division of Real Estate that many of you did not receive the December edition of the Appraiser Review. If you did not, and you wish to receive this edition, please contact us. We'll be happy to mail one out to you.

USPAP Q.& A.

continued from page 5

Vol. 4, No. 2 February 2002

Question #1

I was recently told that USPAP allows appraisers to wait and create a workfile after the report has been delivered to the client for an appraisal, appraisal review, or appraisal consulting assignment. Is this true?

Response:

No. The Record Keeping section of the ETHICS RULE states:

*A workfile must be in existence **prior to and contemporaneous with** the issuance of a written or oral report. A written summary of an oral report must be added to the workfile within a reasonable time after the issuance of the oral report. (bold added for emphasis)*

It is advisable to create a workfile as soon as an agreement between an appraiser and a client results in an assignment.

Question #2

I am a state certified appraiser and was recently asked by a client to perform a "condition and marketability report." A value conclusion is not requested as part of the assignment; however, I must sign the report as an appraiser. Is this assignment covered by USPAP?

Response:

Yes. Since the condition and marketability of a property directly pertains to its value, this is a valuation service. Furthermore, because you are being asked to perform the service

as an appraiser, the assignment involves appraisal practice. USPAP defines appraisal practice as:

valuation services, including, but not limited to, appraisal, appraisal review, or appraisal consulting, performed by an individual as an appraiser.

Comment: Appraisal practice is provided only by appraisers, while valuation services are provided by a variety of professionals and others. The terms appraisal, appraisal review, and appraisal consulting are intentionally generic and are not mutually exclusive. For example, an opinion of value may be required as part of an appraisal review and is required as a component of the analysis in an appraisal consulting assignment. The use of other nomenclature for an appraisal, appraisal review, or appraisal consulting assignment (e.g., analysis, counseling, evaluation, study, submission, or valuation) does not exempt an appraiser from adherence to the Uniform Standards of Professional Appraisal Practice. (bold added for emphasis)

Appraisers who provide appraisal practice services for which there are no specific performance standards should comply with the portions of USPAP that still apply generally to appraisal practice. These include the PREAMBLE; the Conduct, Manage-

continued on page 10



Utah Real Estate Appraiser Review

Purpose: To provide licensees with the information and education they need to be successful in competently serving the public.

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APPRAISERS

We invite you to submit articles for consideration for publication in this newsletter. Articles should address issues of interest to the appraisal industry.

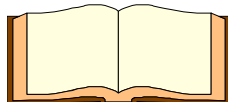
We will review the information submitted and, if appropriate, publish the article in a future edition of the *Appraiser Review*. All articles are subject to editing for length and content. Submitted articles cannot be returned. Submit articles to:

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Box 146711
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USPAP and Utah Law

It is important for all appraisers to stay current with USPAP. The current edition of USPAP (along with Advisory Opinions and Statements) is always available from the Appraisal Foundation. Their phone number is:

(202) 347-7722, and their address is:



The Appraisal Foundation
1029 Vermont Ave N.W. Ste 900
Washington, DC 20005-3517

or you may wish to go to their website:
www.appraisalfoundation.org.

The Division of Real Estate plans to print some copies and they will be available in our offices at 160 E 300 South, Salt Lake City UT 84111. The cost is \$6.50 if you pick them up, or \$8.50 if we mail them.

It is also important to stay current with Utah Statute and Administrative Rules. You may link to them through our website at: www.commerce.utah.gov/dre. That will take you to the home page of the Division of Real Estate. When you get there click on "About Us," and then on "Administrative Rules."

You Must Notify the Division -- in Writing --



Within 10 Days of:

- a change of personal address
- a change of business address
- a change of name
- a change of personal telephone number
- a change of business telephone number
- a conviction of a criminal offense
- a filing of bankruptcy

USPAP Q.& A.

continued from page 9

ment, and Confidentiality sections of the ETHICS RULE; the COMPETENCY RULE; the JURISDICTIONAL EXCEPTION RULE; and the SUPPLEMENTAL STANDARDS RULE.

(See AO-21 for further advice).

Question #3

I am appraising a property that will require a Discounted Cash Flow (DCF). Are there any special requirements in USPAP for this?

Response:

Yes. STATEMENT NO. 2 (SMT-2) contains a number of requirements related to performing a DCF. The following outlines the conclusions at the end of this Statement:

- *DCF analysis is an additional tool available to the appraiser and is best applied in developing value opinions in the context of one or more other approaches.*
- *It is the responsibility of the appraiser to ensure that the controlling input is consistent with market evidence and prevailing market attitudes.*
- *Market value DCF analyses should be supported by market-derived data, and the assumptions should be both market-and property-specific.*
- *If using commercial software the appraiser should cite the name and version of the software and provide a brief description of the methods and assumptions inherent in the software.*
- *DCF accounts for and reflects those items and forces that affect the revenue, expenses, and ultimate earning capacity of real estate and represents a forecast of events that would be considered likely within a specific market.*
- *The results of DCF analysis should be tested and checked for errors and reasonableness.*
- *Standards Rule 1-1(b) states that the appraiser must not commit a substantial error of omission or commission that significantly affects the appraisal.*

Since statements have the full weight of a Standards Rule, their requirements are binding and must be adhered to.

N

In Memoriam

The Utah Division of Real Estate expresses
condolences to the family of

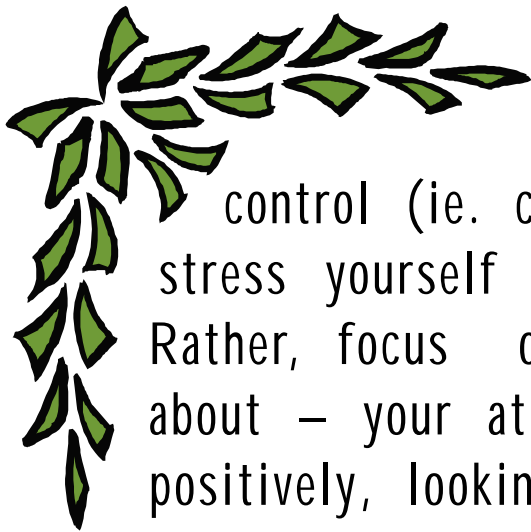
Robert Lloyd Cope

Utah Certified General Appraiser
who passed away recently

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When things are beyond your control (ie. computer failure, traffic jams), don't stress yourself over what you can't change. Rather, focus on what you can do something about – your attitude. Practice thinking positively, looking on the brighter side, to help you make it through difficult or demanding situations.

